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In re Application of	:	DECISION ON
TYMIANSKI, Michael et al.	:	
Application No. 10/584,831	:	
PCT No.: PCT/CA2004/002193	:	
Int. Filing Date: 22 December 2004	:	PETITION UNDER
Priority Date: 23 December 2003	:	
Attorney's Docket No.: 026373-000300US	:	
For: POLYPEPTIDES FOR MODULATING	:	
BINDING OF TRP CHANNEL PROTEINS	:	37 CFR §1.137(b)
AND TRP-ASSOCIATED PROTEINS	:	

This petition decision is in response to Applicant's "Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," filed on 04 December 2006. The Petition identifies the Applicant as being entitled to small entity status. The small entity fee for the Petition in the amount of \$750 has been submitted.

BACKGROUND

On 22 December 2004, the above-named international application was filed with claimed foreign priority to 23 December 2003. Under 35 USC §1.371(b) and under 37 CFR §1.495(b), Applicant must submit the items identified in 35 USC §1.371(b) no later than 30 months from the date of foreign priority upon entrance into the national stage of examination. In the instant application, the thirty-month date would be 23 June 2006.

On 26 June 2006, a "Transmittal Letter To The United States Designated/Elected Office (DO/EO/US) Concerning A Submission Under 35 USC 371" was received in the United States Patent and Trademark Office (USPTO) that included an "express request to begin national examination procedures" under 35 USC §371(f) and that had the parts required under 35 USC §371(b) in order to enter the national phase, including the required fees. The 26 June 2006 Letter was accompanied by a "Petition For Revival Of An Application For Patent Abandoned

Unintentionally Under 37 CFR 1.137(b)” with the small entity petition fee of \$750 as provided for in 37 CFR §1.17(m).

Since the Basic National Fee was received after the thirty-month period for entry into the national phase of examination had expired, the instant application went abandoned at midnight of 23 June 2006.

DISCUSSION

Under 37 CFR §1.137(b), a grantable petition for revival of an unintentionally abandoned application must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 CFR §1.17(m); (3) a statement under 37 CFR §1.137(b)(3) that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR §1.137(b) was unintentional; and (4) any terminal disclaimer that may be required under 37 CFR §1.137(d).

The Petitioner has submitted the basic national filing fee (small entity) of \$150, has submitted petition fee (small entity) of \$750, and has stated that the delay was unintentional. No terminal disclaimer is required.

DECISION

For the reasons set forth above, the petition under 37 CFR §1.137(b) is hereby **GRANTED**.

This application is being forwarded to the United States Designated Office/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 must be filed.



Bernarr E. Gregory
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